

REMARKS

First, Applicant wishes to thank Examiner Sharma for the telephone interview so courteously granted to Mr. John Mion, Applicant's attorney, on May 2, 2006.

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Claims 2-7 and 9 are all the claims pending in the application. Claim 7 is amended not for purposes of patentability but to provide Applicant with the scope of protection it is entitled.

STATEMENT OF SUBSTANCE OF INTERVIEW

Claims 7 and 9 were discussed relative to the disclosure of Gilhousen. No agreement was reached, but Examiner Sharma indicated that dependent claim 9 (9/7) might be given favorable reconsideration if the word "satellite" were modified in such a way as to differentiate it from a base station which is "airborne" as described in Gilhousen '865. The Examiner suggested that the "replaced radio relay" should be defined as being in an orbit, if support for such a definition can be found in Applicant's specification. Examiner Sharma suggested that the attorney to file a written response to the Office Action. Applicant at this time respectfully declines to amend the claims as suggested by the Examiner because Applicant believes the claims are distinguishable over the prior art for the reasons discussed below.

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Mr. Mion called Examiner Sharma and her supervisor on February 24, 2006, and it is the attorney's understanding that the Form PTO-892 attached to the final Office Action should, in fact, contain no listed documents.

PRIOR ART REJECTIONS

Claims 5-7 and 9 are rejected under 35 U.S.C. § 103(a) as being unpatentable (obvious) over Baum (WO '992) in view of Gilhousen '865 (**newly applied**) and claims 2-4 are rejected under 35 U.S.C. § 103(a) as being unpatentable (obvious) over Baum and Gilhousen further in view of Wong '790. Applicant respectfully declines to amend claim 9 as suggested by the Examiner since all the limitations of claim 7 are not disclosed or suggested by the prior art. Accordingly, Applicant respectfully traverses the rejection

Claim 1 is directed to replacing a radio relay and a telecommunication network. The claim requires, among several features, replacing the radio relay by “an aircraft (1) of the airplane or glider type which has propulsion means (2) enabling said aircraft (1) to maintain itself, to move itself, and to orient itself solely at high altitudes.”

Baum is cited for teaching all the elements of claim 1 except for disclosing that the radio relay on the ground is replaced by an aircraft. Gilhousen, is cited for teaching that feature missing from Baum. At page 2 of the Final Office Action the Examiner asserts that Baum discloses an aircraft that includes propulsion means that enables an aircraft to maintain itself, to move itself and to orient itself solely at high altitudes. The Office Action cites Baum at page 6,

line 23 through page 7, line 3, and page 11, lines 21-28, and Fig. 2 element 15, for disclosing this feature.

Baum, at page 6, lines 23-29 describes a navigation means that includes “a plurality of propulsion units.” At page 6, line 32 through page 7 line 3, Baum describes the propulsion units being used during deployment of the strato-state platform (SSP) to “initially bring the platform according to the invention to the desired location whereupon the navigation system maintains the platform geo-stationary.” Baum also discloses at page 13 lines 19-27 that the propulsion units are used during the launch of the SSP, by stating that “at that position a third command disconnects the auxiliary balloons 51 whereupon the platform 50 rises to position D and from there by the driving force of its own lift and with the aid of its own suitably programmed navigational system, or alternatively by control from the ground station 59, reaches the desired location in the stratosphere.”

Applicant respectfully submits that Baum does not teach or even suggest that the propulsion units disclosed in Baum operate “to orient itself solely at high altitude.” (emphasis added) The portions of Baum noted above indicate that the propulsion units, which are part of the navigation means, operate as part of the launch process. Accordingly, even if Baum were combined with Gilhousen, as asserted in the Office Action, all the limitations of claim 7 would not be met since Baum does not teach or suggest that the propulsion units operate solely at high altitude. Hence, the Baum/Gilhousen combination asserted in the Office Action does not render claim 7 unpatentable.

The remaining claims contain by reference all the limitations of claim 7, and hence, are patentable for at least the same reasons.

Claims 2-4 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Baum and Gilhousen in view of Wong. Applicant respectfully traverses the rejection.

Claims 2-4 contain by reference all the limitations of claim 7, and hence, are patentable for at least the same reasons. Further, Wong does not satisfy the deficiency of Baum, and hence does not render claims 2-4 unpatentable.

Thus, Applicant respectfully requests the Examiner to reconsider and withdraw the two rejections under 35 U.S.C. § 103(a), and to find the application to be in condition for allowance with all of claims 2-7, 9 and 10; however, if for any reason the Examiner feels that the application is not now in condition for allowance, the Examiner is respectfully requested to **call either Mr. Mion or the undersigned attorney** to discuss any unresolved issues and to expedite the disposition of the application.

Applicant files concurrently herewith a Notice of Appeal (with fee).

Applicant also files concurrently herewith a Petition (with fee) for an Extension of Time of one month. Applicant hereby petitions for any extension of time which may be required to maintain the pendency of this application, and any required fee for such extension is to be charged to Deposit Account No. 19-4880. The Commissioner is also authorized to charge any additional fees under 37 C.F.R. § 1.16 and/or § 1.17 necessary to keep this application pending in the Patent and Trademark Office or credit any overpayment to said Deposit Account No. 19-4880.

AMENDMENT UNDER 37 C.F.R. §1.116
U.S. APPLN. NO. 10/009,573

Respectfully submitted,

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CUSTOMER NUMBER

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